

Bankruptcy (Ireland) Bill.

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17. Undischarged bankrupt taking twenty pounds credit guilty of misdemeanor.
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19. Commencement of Act.
20. Limit of Act.

SCHEDULE.

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B I L L

TO

Amend the Law of Bankruptcy in Ireland.

A.D. 1890.

WHEREAS it is expedient to amend the laws relating to bankruptcy in Ireland:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

1. This Act shall be construed together with so much of the Irish Bankrupt and Insolvent Act, 1857, as was not repealed by the Bankruptcy (Ireland) Amendment Act, 1872, and together with the Bankruptcy (Ireland) Amendment Act, 1872, except so far as the said Act of 1872 is not repugnant to anything contained in this Act.

Construction of Act with 20 & 21 Vict. c. 60, and with 35 & 36 Vict. c. 58.

2. The terms in this Act shall have the same meanings as in the Irish Bankrupt and Insolvent Act, 1857, and in the Bankruptcy (Ireland) Amendment Act, 1872.

Interpretation of terms.

3. Any debtor who, being unable to meet his engagements, calls a meeting of his creditors and lays before them a statement of his affairs and offers a composition, shall be deemed to have declared himself insolvent, and if such offer of composition be not accepted at said meeting by two thirds in number and value of the creditors present or represented at said meeting, or at an adjourned meeting so adjourned for the purpose of enabling him to amend his offer, he, the said debtor, shall thereby be deemed to have committed an act of bankruptcy, and on the application to the court by one or more creditors to whom he is severally or jointly indebted for the sum of twenty pounds or upwards, shall by the court be adjudicated a bankrupt, and be subjected to the process and procedure consequent thereon.

Debtor must file verified statement whether he calls private meeting of his creditors or petitions the court for protection.

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4.—(a.) Every such debtor so adjudicated, and

(b.) Any debtor who may petition the court for protection shall, within one week from being, as in the first case, so adjudicated a bankrupt, and, in the second case, from so petitioning the court for protection, file a statement of his affairs showing in detail his liabilities and assets, and setting out the names and addresses of all his creditors and the sum or sums of ten pounds and upwards due to each creditor. The said statement shall show the status of each creditor as secured, partly secured, or unsecured; and it shall also set out opposite each debt the consideration therefor.

The statement to be verified by affidavit.

(1.) The debtor shall at the same time file an affidavit, in the form in the Schedule hereto, verifying the said statement, and showing that no agreement for the purpose of promoting or carrying his composition or scheme was entered into between him and any other person or persons, and that no understanding existed between him and any other person or persons, the meaning of which would be the giving a benefit or preference to any one or more creditor or creditors to the prejudice of the other creditors.

Provided always, that it shall and may be lawful to and for the debtor, with the leave of the court, to correct and supply any errors and omissions that may be in his said statement.

Official assignee to summon meeting of creditors.

5. The official assignee shall within one fortnight from the filing of the said statement summon a meeting of the creditors, of which meeting each creditor shall get not less than six days notice, and together with the notice summoning the said meeting, he shall send to each creditor a copy of the debtor's statement, and also the offer of composition or scheme of arrangement. The court shall have power, on cause shown, to extend the time for these purposes.

Official assignee to act as secretary to meeting, and to take evidence.

1. Such meeting shall be held at the chambers of the official assignee, or at such other place as, in the opinion of the court, shall be most convenient for three fifths in number and value of the creditors;
2. And the official assignee or his representative present at such meeting shall have power to examine on oath the debtor or any other person or persons whose evidence may tend to a complete disclosure of all facts and circumstances connected with the case, and the official assignee or his deputy shall attend such meeting and act as secretary thereof.

Official assignee to cause valuation of debtors

6. The official assignee shall, if required by a resolution of the creditors at such meeting, cause a valuation of the debtor's property and assets to be made, and he shall adjourn the meeting for such

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time as, in the opinion of the majority of the creditors present or represented, shall be most convenient.

assets to be made.

7. The creditors, by resolution, shall have power to adjourn such meeting from time to time or to such other place as they may deem desirable.

Creditors may adjourn meeting.

8. The word "resolution" shall mean the decision arrived at by three fifths in number and value of the creditors present or represented at such meeting, and the same shall be binding on all the other creditors, whether absent, present, or represented. Secured debts to the amount secured shall not be included in the debtor's liabilities, but shall be duly explained, as well as the consideration therefor.

Explanation of terms.

9. At such meeting, or any adjournment thereof, the creditors shall have power to elect a chairman, who shall sign the minutes of the said meeting, and the said minutes shall form part of the proceedings and shall be placed on the record in the said matter. The debtor shall attend each meeting, unless his presence be dispensed with by a vote of a majority of the creditors, but the meeting may proceed in his absence, and any decision arrived at shall not be invalidated by reason of his absence.

Power to elect chairman, and provision for attendance of debtor at meeting.

10. The meeting may be adjourned for the purpose of having the debtor examined in court, if, in the opinion of a majority of the creditors present at such meeting, such examination would be advisable.

Debtor may be examined in open court.

11. At such meeting, or any adjournment thereof, the creditors may by resolution accept the debtor's offer of composition or scheme of arrangement, or any modification thereof, or may reject the same and elect to have the petitioning debtor adjudicated bankrupt, and in the case of the debtor already adjudicated bankrupt to have same confirmed, in both of which cases a trade assignee shall then be appointed to act with the official assignee.

Creditors may accept or refuse composition.

12. If the creditors accept the offer or scheme of arrangement, whether on the debtor's original or amended offer, the same shall be submitted to the court within one week, and the court shall ratify the same in the hearing and presence of the chairman of the meeting at which such assent was given, and if the chairman should not be able to attend, then in the presence and hearing of any one or more of the creditors present at such meeting, provided that same was agreed to by three fifths in number and value of all the creditors, and being so every creditor shall be bound to accept such composition.

Composition to be submitted to the court for ratification.

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Composition to be published in Gazette.

Court in case of fraud may annul proceedings.

Court may commit debtor in case of fraud.

Discharge from bankruptcy no safeguard in case of fraud.

Undischarged bankrupt taking 20*l.* credit guilty of misdemeanor.

Sections of Act of 20 & 21 Vict. c. 60, repealed.

Commencement of Act.

Limit of Act.

13. Every composition or scheme of arrangement shall by the official assignee be duly published in the Gazette in the terms thereof.

14. If at any time facts come to the knowledge of the court showing that the petition for arrangement, composition, or scheme was brought about by fraud or collusion, the court shall have power to annul the said composition or scheme and to adjudicate such debtor bankrupt.

15. When there is, in the opinion of the court, ground to believe that the bankrupt or any other person has been guilty of any offence which is by statute made a misdemeanor in cases of bankruptcy, the court may commit the bankrupt or such other person for trial. For the purpose of committing the bankrupt or such other person for trial the court shall have all the powers of a stipendiary magistrate as to taking depositions, binding over witnesses to appear, admitting the accused to bail, or otherwise. Nothing in this section shall be construed as derogating from the powers or jurisdiction of the High Court of Justice in Ireland.

16. Where a debtor has been guilty of any offence which is by statute made a misdemeanor in cases of bankruptcy, he shall not be exempt from being proceeded against therefor by reason that he has obtained his discharge, or that a composition or scheme of arrangement has been accepted or approved.

17. Where an undischarged bankrupt under this Act obtains credit to the extent of *twenty pounds* or upwards from any person without informing such person that he is an undischarged bankrupt he shall be guilty of misdemeanor, and may be dealt with and punished as if he had been guilty of misdemeanor under the Debtors Act (Ireland), 1872, and the provisions of that Act shall apply to proceedings under this section.

18. From and after the *passing of this Act* the following provisions of the herein-after named statutes shall be and are hereby repealed, viz., of the Act twenty and twenty-one Victoria, chapter sixty, sections one hundred and thirty-eight, one hundred and forty-nine, three hundred and forty-three, three hundred and forty-four, three hundred and forty-five, three hundred and forty-six, three hundred and forty-seven, three hundred and forty-nine, three hundred and fifty-three, and three hundred and fifty-four.

19. This Act shall come into operation on the *first day of January one thousand eight hundred and ninety-one*.

20. This Act shall apply to Ireland only.

SCHEDULE.

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I, *A.B.*, being the debtor in this matter, make oath and say that the statement which I have furnished of my affairs is true in substance and in fact.

To the best of my knowledge, information, and belief, I have truly set out
5 all my creditors, classified as secured, partly secured, or unsecured, as well as the sum or sums due by me.

I say that I have not incorrectly set out any creditor or creditors in my said statement, and that it is not my intention or object to defeat or delay the claims of any of my said creditors, and that there is no collusion between me
10 and any creditor or creditors, or any other person, the effect of which would be to prejudice the claims of any of my other creditors.

Sworn, &c.

Bankruptcy (Ireland).

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B I L L.

To amend the Law of Bankruptcy in
Ireland.

*(Prepared and brought in by
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Mc. Donagh, Mr. John O'Donnell,
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EXPLANATION OF TERMS AND ABBREVIATIONS.

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And to be printed, after which, or before any Statute there
Enacted hereunto made, bearing date, that Statute, &c.,
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